



# House of Representatives

General Assembly

**File No. 581**

*January Session, 2005*

House Bill No. 6812

*House of Representatives, April 28, 2005*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT CONCERNING PUBLIC ACCESS TO PROCEEDINGS IN CERTAIN JUVENILE MATTERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-122 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) All matters which are juvenile matters, as provided in section  
4 46b-121, shall be kept separate and apart from all other business of the  
5 Superior Court as far as is practicable, except matters transferred  
6 under the provisions of section 46b-127, which matters shall be  
7 transferred to the regular criminal docket of the Superior Court. Any  
8 judge hearing a [juvenile] delinquency matter or a matter concerning a  
9 family with service needs may, during such hearing, exclude from the  
10 room in which such hearing is held any person whose presence is, in  
11 the court's opinion, not necessary, except that in delinquency  
12 proceedings any victim of the delinquent act, the parents or guardian  
13 of such victim and any victim advocate appointed pursuant to section

14 54-221 shall not be excluded unless the judge specifically orders  
15 otherwise.

16 (b) Members of the public may attend proceedings in which a child  
17 is alleged to be uncared for, neglected, abused or dependent or is the  
18 subject of a petition for termination of parental rights, except that the  
19 court may exclude any person from such proceedings if the court  
20 determines, on a case-by-case basis, that such exclusion is warranted.  
21 In making such determination, the court may consider, among other  
22 factors, whether: (1) The person is causing or is likely to cause a  
23 disruption in the proceedings; (2) the presence of the person is objected  
24 to for a compelling reason by one of the parties, including the attorney  
25 for the child or a guardian ad litem; (3) the privacy interests of  
26 individuals before the court and the need to protect the child and other  
27 parties from harm requires that the person, or some or all observers, be  
28 excluded from the courtroom; (4) the presence of the person will  
29 inhibit testimony or the disclosure or discussion of information  
30 material to the proceedings; and (5) less restrictive alternatives to  
31 exclusion are unavailable or inappropriate to the circumstances of the  
32 particular case. The court shall make its findings and determination on  
33 the record.

34 (c) If a member of the public is in attendance at any proceeding  
35 pursuant to subsection (b) of this section, the court shall consider, on a  
36 case-by-case basis, whether there is a compelling reason to issue an  
37 order prohibiting the member of the public from using or  
38 disseminating the name, address, photograph or other personally  
39 identifiable information about a child, parent or guardian disclosed  
40 during the proceedings. In determining whether a compelling reason  
41 to issue such order exists, the court shall consider, among other factors:  
42 (1) The nature of the allegations; (2) the age and maturity of the child;  
43 (3) the emotional well-being of the child; (4) the potential harm to the  
44 child if such information is disclosed; and (5) the public interest in  
45 disclosure.

46 (d) Nothing in this section shall be construed to affect the

47 confidentiality of records of cases of juvenile matters as set forth in  
48 section 46b-124.

This act shall take effect as follows and shall amend the following sections:
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Section 1	<i>October 1, 2005</i>	46b-122
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**JUD**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Judicial Dept.	GF - Cost	Potential	Potential

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill permits members of the public to observe child protection hearings provided certain conditions are met. It is anticipated that this change, in and of itself, will not necessitate an expansion of juvenile court staffing or facilities as it is not expected to result in a substantial increase in the volume of people passing through these courts on a daily basis. However, to the extent that public access contributes to an overall lack of space in any particular juvenile court facility, it could be a factor in determining that additional space is necessary. The cost of any expansion, whether in leased or owned space, would be greater than \$100,000.

**OLR Bill Analysis**

HB 6812

***AN ACT CONCERNING PUBLIC ACCESS TO PROCEEDINGS IN CERTAIN JUVENILE MATTERS*****SUMMARY:**

This bill limits the circumstances under which juvenile court judges hearing child abuse, termination of parental rights, and dependency matters can exclude members of the public, including the press, from their courtrooms. It also requires these judges to have a compelling reason for barring members of the public from disseminating or using personally identifying information about children, parents, or guardians disclosed at hearings they attended.

It retains the existing law's prohibition against disclosing juvenile court records, directly or indirectly, to any third party, except as provided by law or court order.

EFFECTIVE DATE: October 1, 2005

**EXCLUDING PEOPLE FROM HEARINGS**

The bill allows judges hearing these matters to exclude people from their courtrooms on a case-by-case basis if warranted. In making this determination, the factors they may consider include whether:

1. the person is disrupting, or likely to disrupt, the proceedings;
2. one of the parties, including the child's attorney or guardian ad litem, asserts a compelling reason for exclusion;
3. the privacy interests of people appearing at the hearing and the need to protect the child and other parties from harm requires exclusion of the person, or some or all observers;
4. the person's presence will inhibit testimony or the disclosure or discussion of material information; and
5. less restrictive alternatives are not available or appropriate to

the particular case.

The court must make its findings and determination on the record.

Current law permits courts to exclude observers it determines are unnecessary to the proceeding, but does not include factors they may consider or require that their decisions be stated on the record. The bill leaves the current procedure intact for cases involving delinquent children and families with service needs.

### **PROHIBITING DISCLOSURE OF IDENTIFYING INFORMATION**

The bill creates a standard for issuing court orders prohibiting court observers from using or disclosing information disclosed during the proceedings. This includes the name, address, photograph, or other personally identifiable information about a child, parent, or guardian. The judge must find a compelling reason to order nondisclosure and must consider:

1. the nature of the allegations;
2. the child's age, maturity, and emotional well-being;
3. potential harm to the child if such information is disclosed; and
4. the public's interest in disclosure.

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Report

Yea 38      Nay 2